

ORDINANCE NO. 20101104-018

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-6 RELATED TO RECYCLING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 15-6-1 (*Definitions*) is amended to read:

§ 15-6-1 DEFINITIONS.

In this chapter:

- (1) **COLLECTION SERVICE** means scheduled collection and disposition of solid waste and recyclables.
- (2) **DEPARTMENT** means the Department of Solid Waste Services.
- (3) **DIRECTOR** means the director of the Solid Waste Services Department.
- (4) **PERSON** means an individual, corporation, firm, government or governmental subdivision, partnership, joint venture, limited liability company, or other business entity.
- (5) **PRIVATE SOLID WASTE COLLECTION SERVICE** means the business of collecting, removing, or transporting solid waste from any premises within the city for a fee.
- (6) **RECYCLABLE MATERIAL** shall mean material that has been recovered or diverted from the nonhazardous solid waste stream for purpose of reuse, recycling or reclamation and a substantial portion of which is consistently used in the manufacture of products, which may otherwise be produced using raw or virgin materials.
- (7) **RECYCLING** shall mean a process by which materials are collected, sorted, processed, or prepared into marketable commodities for manufacturing into new products.
- (8) ~~(6)~~ **SOLID WASTE** means rubbish, refuse, and other discarded materials.
- (9) ~~(7)~~ **SOLID WASTE SERVICE** means collection and disposal of solid waste, collection and processing of recyclable[s] material, litter abatement, street cleaning, and household hazardous waste disposal.

PART 2. City Code Section 15-6-3 (*Administration*) is amended to read:

§ 15-6-3 ADMINISTRATION.

- (A) The director shall adopt rules to administer and enforce this chapter.
- (B) Before the director may adopt or amend a rule under this chapter, the director shall present the proposed rule to the Solid Waste Advisory Commission.
- (C) The department shall make a copy of the rules available to a customer on request.
- (D) Violation of a rule adopted by the director under the authority of this code is an offense of City Code and a Class C Misdemeanor punishable as an offense.

PART 3. City Code Section 15-6-4 (*Rules*) is amended to read:

§ 15-6-4 RULES.

The director shall include in the rules adopted under this chapter:

- (1) a list of items that the department collects;
- (2) a list of public alleys where a mechanically-handled refuse container may not be placed; and
- (3) a list of items that must be recycled by a recycling service under Article 5 (~~*Commercial and Multi-Family Recycling*~~) *Universal Recycling*).

PART 4. City Code Section 15-6-13 (*Private Collection Service*) is amended to read:

§ 15-6-13 PRIVATE COLLECTION SERVICE.

- (A) The director may require a person to obtain private collection service, if the director determines that the person or property under control of the person cannot be adequately served by the City.
- (B) The owner or other person in charge of a property subject to this chapter [~~business, apartment house, or other multi-family residential unit that contains at least four dwelling units~~] may decline collection service through a written agreement with the City. The department may not charge for collection service at the affected property while the agreement is in effect.
- (C) The department may not charge a person who obtains private collection service under this section.

PART 5. City Code Section 15-6-17 (*Receptacle*) is amended to read:

§ 15-6-17 RECEPTACLE.

- (A) The director shall adopt rules prescribing the physical characteristics, use, and maintenance requirements for solid waste and recyclable receptacles.
- (B) A person [~~customer~~] shall use and maintain a receptacle for solid waste or recyclables that conforms to a rule adopted under this section.
- (C) If the department supplies a receptacle to a customer for use at the customer's premises:
 - (1) the receptacle remains City property; and
 - (2) the receptacle may be removed from the customer's premises only by a department employee or agent.
- (D) Except as provided by Subsection (E), a customer shall store a receptacle on private property.
- (E) A customer who executes a license agreement with the City may store a receptacle in a specially designated area of public property.
- (F) A customer shall deliver a receptacle to the designated collection location at a public street or alley between 8:00 p.m. on the day preceding the collection day and 6:30 a.m. on the collection day. A customer shall remove a receptacle from the collection location not later than 10:00 p.m. on the collection day.

PART 6. City Code Chapter 15-6-44 (*Reporting Requirements*) is amended to read:

§ 15-6-44 REPORTING REQUIREMENTS.

- (A) A licensee shall maintain a list of the containers used for the collection, storage, or disposal of solid waste that are owned or serviced by the licensee, with the customer number and the location of each container.
- (B) A licensee shall file a quarterly report of the number of containers it services in the city. A licensee shall submit the container fee required by this article with a report filed under this section.
- (C) ~~On or before the first day of January, April, July, and October, a~~ A licensee who provides recycling service under Article 5 (Universal [~~Commercial and Multi-Family~~] Recycling) shall file a ~~quarterly~~ biannual report with the department that includes:

- (1) the amount and type of recyclable materials collected; and
- (2) other information required by the director.

PART 7. City Code Chapter 15-6, Article 5 (*Commercial and Multi-Family Recycling*) is amended to read:

ARTICLE 5. [COMMERCIAL AND MULTI-FAMILY] UNIVERSAL RECYCLING.

Division 1. General Provisions.

PART 8. City Code Section 15-6-81 (*Applicability*) is amended to read:

§ 15-6-81 APPLICABILITY.

~~[(A)]~~ This article applies in the City's zoning jurisdiction.

~~[(B)] This article does not apply to City of Austin Solid Waste Services customers.]~~

PART 9. City Code Section 15-6-82 (*Right of Entry*) is amended to read:

§ 15-6-82 RIGHT OF ENTRY.

- (A) A department inspector may enter the premises of a business, building, or multi-family residential complex, or other location that is required to provide on-site recycling under this article to inspect for compliance with this article.
- (B) An inspector shall present the inspector's credentials to an occupant of the premises on request.
- (C) An inspector shall make a reasonable effort to locate the owner or other person having control of the building and request entry to the premises.

PART 10. City Code Section 15-6-91 (*Required Service Providers*) is amended to read:

§ 15-6-91 REQUIRED SERVICE PROVIDERS.

- (A) Until September 30, 2012, the ~~[The]~~ owner or other person in control of the following premises shall provide on-site recycling service under this article:
 - (1) a business with 100 or more employees;
 - (2) a building housing businesses with an aggregate of at least 100 employees, if the building owner or manager provides a single garbage collection service; and
 - (3) a multi-family residential complex with more than 100 units.

(B) The owner or other person in control of the following premises shall provide on-site recycling service under this article:

- (1) effective October 1, 2012, for multi-family residential use that consists of more than 75 dwelling units;
- (2) effective October 1, 2013, for multi-family residential use that consists of more than 50 dwelling units;
- (3) effective October 1, 2014, for multi-family residential use that consists of more than 26 dwelling units;
- (4) for multi-family residential use premises that consists of fewer than 26 dwelling units, on the date the city makes single stream recycling services available to the premises;
- (5) effective October 1, 2012, for non-residential premises that consist of 100,000 or more square feet of floor area;
- (6) effective October 1, 2013, for non-residential premises that consist of 75,000 to 99,999 square feet of floor area;
- (7) effective October 1, 2014, for non-residential premises that consist of 50,000 to 74,999 square feet of floor area;
- (8) effective October 1, 2015, for non-residential premises that consist of 26,000 to 49,999 square feet of floor area; and
- (9) for non-residential premises that consist of fewer than 26,000 square feet of floor area, on the date the city makes single stream recycling services available to the premises.

(C) Except as otherwise provided in Section 15-6-91 (D) (Required Service Providers), the owner or other person in control of a premises may apply to the director to deduct any square footage of floor area at a premises attributable to a properly permitted restaurant use, food service establishment, food processing plant, certified farmers market, licensed food preparation facility, retail sales, manufacturing, or industrial use from the square footage calculation of Section 15-6-91 (B) (Required Service Providers) for the purposes of calculating compliance date under Section 15-6-91 (Required Service Providers) if the owner or other person in control of the premises submits an affidavit identifying the actual square footage of floor area at the location attributable to specified use with a valid certificate of occupancy or approved site plan documenting each use for which deduction is sought.

- (D) Any square footage of floor area at a premises which is attributable to an office use shall not be deducted from the total square footage of floor area at a premises for the purposes of calculating compliance date under Section 15-6-91 (Required Service Providers).
- (E) The owner or other person in control of a premises not currently or otherwise required to provide on-site recycling service under Section 15-6-91 (A) (Required Service Providers) shall not be required to provide on-site recycling service under this article to any square footage of the premises for which the director has approved a deduction from the calculations under Section 15-6-91(C) (Required Service Providers).

PART 11. City Code Section 15-6-92 (*Service Described*) is amended to read:

§ 15-6-92 SERVICE DESCRIBED.

- (A) A person required to provide recycling service under this article must:
- (1) provide the service at least two times each month;
 - (2) collect at least two recyclable materials listed in rules adopted under this article before November 3, 2010, from a business or building to which (A)(1) and (A)(2) of Section 15-6-91 (Required Service Providers) [the article] apply;
 - (3) collect at least four recyclable[s] materials listed in rules adopted under this article before November 3, 2010, from a multi-family residential complex to which Section 15-6-91(A)(3) (Required Service Providers) [the article] applies; and
 - (4) collect at least the following materials from a premises to which Section 15-6-91(B) (Required Service Providers) applies: paper, plastic resins PETE and HDPE, aluminum, cardboard, and glass; and
 - ~~[(4)]~~ (5) include recycling receptacles and recycling collection and storage areas that comply with applicable rules.
 - (6) properly handle the recyclable material by:
 - (a) collecting and transporting the recyclable materials to a state-recognized materials recovery facility; or
 - (b) arranging for the collection and transport of the recyclable materials to a state-recognized materials recovery facility.
- (B) A person required to provide service to a property under this article may provide the service personally or by contract with a recycling service

provider that is listed on the City's recycling service provider registry. The director shall make available online at the City's website and by hard copy lists available at the offices of Solid Waste Services the names and contact information for all recycling service providers validly registered with the City.

- (C) Not later than 365 days following the date when the City is able to make available to service providers single stream recycling processing, any person, entity, premises or location required to comply with the terms of this article will also be required to increase the types of minimum materials to be accepted for on-site recycling at the premises to include any plastic with resin identification code of PVC, PELD, PP, PS, or O; paper board; tin; and steel. The Department shall adopt rules which identify an alternative compliance process whereby a property owner or property manager can request approval from the director to substitute one of the mandatory materials accepted for another acceptable recyclable material.

PART 12. City Code Section 15-6-93 (*Education*) is amended to read:

§ 15-6-93 EDUCATION.

- (A) An owner or other person required to provide recycling service to a premises [~~business~~] must provide recycling information and instructions in accordance with rules adopted by the director to:
- (1) all premises tenants and [its] employees annually;
 - (2) a new employee or tenant no later than the seventh day after the tenant occupies or the employee begins work at the premises; and
 - (3) all employees or tenants not later than the 30th day after a change in the recycling service offered at the premises.
- (B) An owner or other person required to provide recycling service to a premises [~~building~~] must provide recycling information and instructions in accordance with rules adopted by the director to:
- (1) each business, tenant, or organization located at the premises [housed in the building] annually;
 - (2) a [new] business, tenant, or organization newly located to the premises not later than the 30th day after any change in occupancy; and
 - (3) all occupancies at the premises [businesses housed in the building] not later than the 30th day after a change in the recycling service offered.

- (C) Effective October 1, 2012, all information and documentation, including signage, required to be provided to persons or posted as public information under this article must be written in English and Spanish and include universal symbols as adopted by the director. [An owner or other person required to provide recycling service to a multi-family residential complex must provide recycling information and instructions to:
- (1) all tenants annually;
 - (2) a new tenant not later than the 30th day after occupancy; and
 - (3) all tenants not later than the 30th day after a change in the service offered.]
- (D) Effective October 1, 2012, each container designated or used for collection and disposal of materials to a state-recognized landfill must be prominently marked "Landfill Trash" in English and Spanish language and in compliance with the rules adopted by the director.
- (E) Effective October 1, 2012, each container designated or used for collection or transport of materials to a state-recognized materials recovery facility shall be affixed with a sign that includes:
- (1) the universal chasing arrows recycling symbol;
 - (2) the type of materials accepted written in English and Spanish language; and
 - (3) the term "Recycling."

PART 13. City Code Section 15-6-101 (*Recycling Plan*) is amended to read:

§ 15-6-101 RECYCLING PLAN.

- (A) A person required to provide recycling service under this article shall file a recycling plan with the department.
- (B) A person shall file a recycling plan for a new business, building, or multi-family residential complex not later than the 14th day after beginning operations and not later than the 180th day following any change in recycling service or recycling provider for the premises for which compliance with this article is required.
- (C) A plan must:
- (1) be on a form prescribed by the director;

- (2) list the materials to be recycled; and
- (3) state whether the person will provide the service by self-hauling or by contract with a recycling service provider.

PART 14. City Code Section 15-6-102 (*Quarterly Volume Report*) is amended to read:

§ 15-6-102 BIENNIAL [~~QUARTERLY~~] VOLUME REPORT.

- (A) A [~~person who contracts with a~~] recycling service provider [~~that is not licensed under Article 3 (Private Solid Waste Collection Service)~~] shall file a volume report twice each year that reflects service provided by the recycling service provider to any premises required to comply with this article. The recycling service provider shall file the volume report in compliance with the rules adopted by the director [~~with the department on or before the first day of January, April, July, and October of each year~~].
- (B) A person who owns or manages a premises required to comply with this article shall file on behalf of each such premises a volume report twice each year that reflects any recycling service to any such premises provided by a person not registered with the City as a recycling service provider.
- (C) [~~(B)~~] A volume report must include:
 - (1) the volume and type of recyclable materials collected in the preceding reporting period as specified in rules adopted by the director [~~quarter~~], and
 - (2) other documentation required by the director.

PART 15. City Code Section 15-6-104 (*Notice of Change of Provider*) is amended to read:

§ 15-6-104 NOTICE OF CHANGE OF PROVIDER.

- (A) A person required to provide recycling service shall notify the department in writing if the person:
 - (1) discontinues self-hauling and contracts with a recycling service provider;
 - (2) terminates a contract with a provider licensed under Article 3 (*Private Solid Waste Collection Service*) and enters a contract with a service provider that is not licensed under Article 3 (*Private Solid Waste Collection Service*); or
 - (3) terminates a contract with a service provider that is not licensed under Article 3 (*Private Solid Waste Collection Service*) and enters a

contract with a service provider that is licensed under Article 3
(*Private Solid Waste Collection Service*).

- (B) A person shall file the notice required by this section with the department in accordance with rules adopted by the director and concurrently with their required reporting under Section 15-6-102 (*Biannual Volume Report*) [~~not later than the 30th day after a contract is executed~~].

PART 16. City Code Chapter 15-6 (*Solid Waste Services*) is amended to add:

Division 4. Registration Requirements.

§ 15-6-105 REGISTRATION OF RECYCLING AND COMPOSTING HAULERS AND RECYCLING PROVIDERS.

- (A) A person who owns, operates, or provides a recycling and composting hauler or recycling processor business or service located within the territorial jurisdiction of the City or to any premises within the territorial jurisdiction of the City shall submit to the director in compliance with applicable rules adopted for such registration the following:
- (1) physical address of operation;
 - (2) proof of insurance – annual commercial fleet policy;
 - (3) drivers’ licenses for company drivers, including commercial drivers’ licenses, if applicable;
 - (4) proof that the recycling hauler or recycling processor is using the correct vehicle to transport recyclable materials consistent with Section 15-6-42 (*Vehicles and Equipment*); and
 - (5) other documentation as specified in applicable rules for such registration adopted by the director.
- (B) A person who owns, operates, or provides a recycling processor business agrees as a condition of such registration to submit to a random site inspection of their property or premises upon request by the director to ensure that the processor’s operations are being conducted in compliance with all applicable City Codes and regulations relating to land development, health and safety, recycling, and nuisance abatement.

PART 17. City Code Chapter 15-6 (*Solid Waste Services*) is amended to add:

§ 15-6-116 OFFENSES.

- (A) A person who is not registered with the director as a recycling hauler or recycling processor commits an offense if the person solicits, accepts, receives, or trades compensation of any kind in exchange for agreeing to collect or transport materials for recycling.
- (B) A person commits an offense if the person dumps, releases, abandons or buries in a location other than a state-recognized landfill or designated recyclable collection receptacle any recyclable material, whether or not the person receives compensation for such activity.

PART 18. City Code Sections 15-6-122 (*Investigations*) is amended to read:

§ 15-6-122 INVESTIGATIONS.

The City [~~department and the Police Department~~] may conduct investigations into the operations of private solid waste collection services operating in the city to determine whether the services comply with this chapter and other applicable laws.

PART 19. City Code Section 15-6-123 (*Enforcement*) is amended to read:

§ 15-6-123 ENFORCEMENT.

The City [~~department and the Police Department~~] shall enforce this chapter and rules adopted under this chapter.

PART 20. City Code Section 15-6-124 (*Citation*) is amended to read:

§ 15-6-124 CITATION.

- (A) An authorized person [~~enforcement officer~~] may issue a citation to a person the issuer [~~officer~~] reasonably believes has engaged in conduct that violates this chapter.
- (B) A citation issued under this section must be on a form prescribed by the municipal court clerk that includes space for the following information, if known, to be indicated, as applicable:
 - (1) the name and address of the person cited;
 - (2) the type and number of a license issued to the person under this chapter, if any;
 - (3) the offense for which the person is charged;

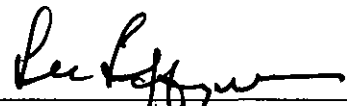
- (4) the date, time, and location of the offense;
 - (5) the state license plate number of the vehicle;
 - (6) the appearance date;
 - (7) a statement ordering the person receiving the citation to respond to the citation at municipal court on or before the appearance date indicated on the citation;
 - (8) a statement of the person's promise to respond to the citation by the appearance date indicated on the citation, together with a place for the person cited to provide the person's signature; and
 - (9) other information as determined by the director.
- (C) The enforcement officer shall retain the original of the citation for filing in Municipal Court, shall request the signature of the person accepting receipt, and provide a copy of the citation to that person. If the person refuses to sign or receive the citation or is not present to receive the citation, the enforcement officer shall:
- (1) leave a copy of the citation on the vehicle in a prominent place; or
 - (2) mail a copy of the citation, as applicable, to:
 - (a) the person cited;
 - (b) the licensee under this chapter;
 - (c) the registered owner of the vehicle; or
 - (d) the holder under whose authority the vehicle is operated.

PART 21. This ordinance takes effect on November 15, 2010.

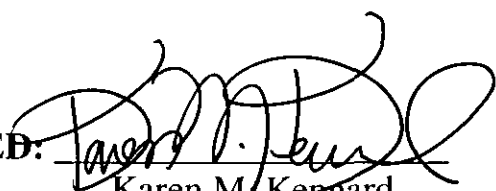
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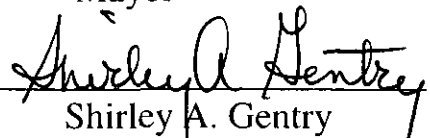
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Leo Leffingwell
Mayor

APPROVED: 
Karen M. Kennard
Acting City Attorney

ATTEST: 
Shirley A. Gentry
City Clerk